Agenda / Discussion Guide

- 11:00am Call to Order for Sub-Committee on Public Health; approval of minutes Cannabis Control Board Conference Room
- 11:05am Review and discuss examples of draft language for other state's "warning" requirements; review information on packaging and labeling
- 11:45am Next steps & assignment of tasks/finalization of warning statements
- 11:50am Public Comments
- 12:00pm Adjourn

Public Health

SUB-COMMITTEE MEMBERS

NACB

- Deneka Scott
- Mark Gorman

Advisory Committee

- Tim Wessel
- Dr. Mark Levine
- Ingrid Jonas

CCB

Julie Hulburd

- Advertising & Marketing
 - (Point of Sale flyer for retailers)
- Packaging & Labeling, including standard cannabis symbol
 - Dates/shelf-life
 - Data we could present
- Edibles & DOH oversight

MILESTONE

- OCTOBER 20, 2021
 Assist the Board in the development of:
 - Regulations regarding advertising and marketing that limit youth exposure.
 - Packaging & Labeling
 - Consideration of dispensary as food manufacturing establishment

Submit Public Comments to:

https://ccb.vermont.gov/form/publicinputform

Key Requirements of Recommendations to CCB

Phase 1

- Advertising & Marketing rules and guidelines
 - Guidelines, including warning statements for packaging/labeling/advertising
 - Licensee material approvals

Phase 2

- Packaging & Labeling rules & guidelines
 - Standard cannabis symbol
 - Dates/shelf-life
 - Warning labels

Phase 3

Edibles & Department of Health oversight

Warnings*

Commonalities:

- Impairment (do not operate machinery or drive)
- May be habit forming
- Not safe for kids
- Adults 21 and older
- Marijuana not used by pregnant or breastfeeding women

*Statements are not in any order of priority

Also noted/observed:

- Delayed impairment (edibles, by 2 hours of more)
- Accidental ingestion/poison control number
- Not safe for pets
- Limited information on health risks
- Edibles cannot be associated cartoons, toys, designs, colors or shapes that appeal to children
- Logos/brand designs cannot be associated with cartoons, toys, designs, colors or shapes that appeal to children
- Psychoactives/Synthetics (Delta 8, etc CDC warning provided by Dr. Levine)

Massachusetts Guidelines

The required statement: "Please Consume Responsibly" on the face of the advertisement in addition to at least two of the following warnings in their entirety:

- "This product may cause impairment and may be habit forming."
- "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug."
- "There may be health risks associated with consumption of this product."
- "For use only by adults 21 years of age or older. Keep out of the reach of children."
- "Marijuana should not be used by women who are pregnant or breastfeeding."

Massachusetts Guidelines

All marketing, advertising, and branding must include the following warning, including capitalization:

 "This product has not been analyzed or approved by the Food and Drug Administration (FDA). There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN. There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The impairment effects of edible marijuana may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 9-1-1. This product may be illegal outside of MA."

Massachusetts Guidelines

Packaging should also include the following statement, including capitalization, in at least *ten-point Times New Roman*, *Helvetica or Arial* font: "

"KEEP OUT OF REACH OF CHILDREN."

 Cannabis products that contain multiple servings, the following statement must be printed on the exterior of the package in a font that is no smaller than ten-point Times New Roman, Helvetica or Arial, including capitalization:

"INCLUDES MULTIPLE SERVINGS."

IICPS – With and Without Optional VT Text

International Intoxicating Cannabis Product Symbol

Follow ISO 3864 "Standardized Safety Signs"

Graphical symbols—Safety colours and safety signs—Part 1: Design principles for safety signs and safety markings

Nathan, David L. & Nathan, Eli. International Intoxicating Cannabis Product Symbol, v. 2021-09-10













Advertising Guideline Examples

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NACE.com

NOTICE REGARDING **ADVERTISING OR PROMOTING** COMMERCIAL CANNABIS



Any licensee, and any person acting on behalf of a licensee, must comply with the statutes and regulations governing commercial cannabis advertising or promoting. Failure to do so may result in significant penalties. Any advertising or promoting of commercial cannabls must identify the licensee responsible for the advertising content, including the responsible licensee's state license number. In addition, all advertising and promoting of commercial cannabis must not:

- Re published or disseminated while a licensee's Itoense is suspended.
- Be located within 1,000 feet of a day care center, school, playground, or youth center.
- · Be published or disseminated without first obtaining reliable unabudate audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or promotion is reasonably expected to be 21 years of age or older.
- · Use any depictions or images of minors or anyone under 21 years of age.
- · Use objects, such as tous, inflatables, movie characters, cartoon characters, or include any other display, depiction, or image designed in any manner likely to be appealing to minors or anyone under 21
- Advertise free cannabis goods or giveaways of any tupe of products.
- · Advertise or promote in a manner that is false, untrue, or tends to create a misleading impression as to the effects on health of cannabis consumption.
- Include any statement concerning a brand or product that is inconsistent with any statement on the labeling

 Create the impression that the cannabis originated In a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement

Moreover, all outdoor signs and billboards used for commercial cannabis advertising must:

- · Be affixed to a building or permanent structure.
- Comply with the provisions of the Outdoor Advertising Act, commencing with section 5200 of the Business and Professions Code, if applicable.
- Not be located within a 15-mile radius of the California. border on an interstate highway or on a state highway that crosses the California border.

Failure to comply with the requirements above, or any other requirements in law, may result in the issuance of a citation or disciplinary action. Each day of violation is considered a separate violation subject to separate fines. Violations by licensed persons may result in citations with fines up to \$5,000. Violations may also result in suspension or revocation of the license.

The full text of the advertising and marketing provisions of MAUCRSA may be viewed at the following link: https://leginfo.legislature.ca.gov/faces/codes_ displauTextxhtml?lawCode=BPC&division=10. &title-&part-&chapter-15.&article-.

The full text of the Bureau's regulations related to advertising and marketing may be viewed at the following link: https://govt.westlaw.com/calregs /Browse/Home/California/CaliforniaCodeof Regulations?guid=ICD31ABEBD99A483DA69CBC 595DF75252&originationContext=document toc&transitionType-Default&contextData-(sc.Default).

ADVERTISING CHECKLIST NACE ADVERTISING CHECKLIST REQUIRED STATEMENTS Y N Does your advertising legibly identify the responsible licensee? Does your advertising state that: No one underage can use (retail) - Product use is only for authorized patients (medical) - There are health risks associated with consumption of There are additional health risks for pregnant and breast-feeling women PROHIBITED STATEMENTS Does your product label refrain from: - making false or misleading statements making health, medical or disease claims - promoting of excessive consumption - promoting safety because of state licensing regulation promoting non-medical use in only medical use state encouraging underage consumption - disparaging or degrading any race, gender, sexual orientation, minority or other group using cartoon characters, toys, mascots, brand sponsorship, logo, animal or celebrity endorsement that targets underage persons encouraging driving while impaired encouraging driving across state lines AUDIENCE COMPOSITION Do you refrain from publishing or advertising to an audience of underage people more than 15%? □ Does your advertising utilize a method of age affirmation to verity the recipients is not underage? Does your advertising refrain from targeting people out of state? □ Do you refrain from advertising on public transit or shelters?

ADVERTISING CHECKLIST Do you refrain from offering gifts in exchange for proofs of DIGITAL ADVERTISING Does your web page employ a neutral age-screening mechanism before allowing access to website? □ Do you refrain from advertising through pop-up ads? Do you refrain from directing ads to location-based devices like cell phones unless confirm not underage and an opt-out feature? EVENT SPONSORSHIP Do you refrain from sponsoring events targeting under age persons?





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WWW.RCC.CA.GOV

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9/16/21

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Enacted Language

While not necessarily advertising, this provides language guidance:

- 7 VSA 907 (d) enacted with requirements
 - (d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board's website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

Next Step Tasks

- Language Development:
 - Using today's language Draft a health warning label for cannabis packages (will help drive packaging and labeling)
 - Draft language for medicinal cannabis advertising (distinguish between advertising for adultuse and medicinal)
 - Draft any general disclosures for advertising (new or summation of any requirements into a unified advertising statement)
 - Review additional IICPS information regarding universal symbols and product packaging
 - 7 VSA 907 (d) enacted with requirements
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In-Room Public Comments

Submit in writing to:

https://ccb.vermont.gov/form/publicinputform

Overview of Act 164 and 62 Requirements for Advertising

Act 164 – RE: Advertising

- Act 164
- Sec. 5. (f) page 18 regarding ADVERTISING
- The Executive Director of the Cannabis Control Board, in consultation with the Office of the Attorney General and the Department of Health, shall develop a proposal for advertising for both the adult-use and medical cannabis programs established in this act.
- The proposal shall reflect the General Assembly's priorities:
 - not promoting cannabis use
 - limiting exposure of cannabis advertising to persons under 21 years of age
 - ensuring consumer protection and public safety
- The proposal shall take the following into consideration:
 - constitutional protections for commercial speech that may exist regarding the cannabis market

Act 62: Definitions

- Act 62
- § 861. **DEFINITIONS** As used in this chapter:
- (1) "Advertise" means the publication or dissemination of an advertisement.
- (2) "Advertisement" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, other periodical literature, publication, or in a radio or television broadcast, the Internet, or in any other media.
- The term does not include:
- (A) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards
- (B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper
 for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any
 cannabis establishment, and that is not written by or at the direction of the licensee
- (C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or
- (D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment

Act 62: Advertising Rules

More specifically, Act 62 stipulates the following rules:

- § 864. ADVERTISING
 - (b) A cannabis establishment advertisement shall not contain any statement or illustration that:
 - (1) is deceptive, false, or misleading
 - (2) promotes overconsumption
 - (3) represents that the use of cannabis has curative effects
 - (4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed
 - (5) offers free samples of cannabis or cannabis products
 - (6) depicts a person under 21 years of age consuming cannabis or cannabis products; or
 - (7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age

Act 62: Advertising Rules

- (c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age. (85% over 21)
- (d) All advertisements shall contain **health warnings** adopted by rule by the Board in consultation with the Department of Health.
- (e) All advertisements **shall be submitted to the Board** on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:
 - (1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or
 - (2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review

Specific Recommendations to Ensure Compliance with Advertising Rules

For sub-committee discussion purposes to support requirements – **starting points/considerations/recommendations** to the Vermont CCB the following actions to ensure compliance by cannabis licensees:

- Create Vermont Cannabis Advertising & Marketing Guidelines/Requirements with (self-audit) checklist for licensees to ensure understanding of requirements in development of advertising/marketing materials (prior to submission for approvals). (See below for specific content considerations #2-5)
 - Create a form and format to be used by licensees in submitting advertisements for review by the CCB
 - Establish a fee for advertisement review by the Board
- **Draft a health warning label for cannabis packages**; consider additional for types of cannabis packages (i.e., edibles)
- Specify means of assuring that advertising audience contains no more than 15% under 21 y/o (85% audience must be over 21)
- Require "age-gating" for social media sites and related advertising pages to limit underage access to commercial cannabis messaging

Specific Recommendations to Ensure Compliance with Advertising Rules

Continued: For sub-committee discussion purposes to support requirements – starting points/considerations/recommendations to the Vermont CCB the following actions to ensure compliance by cannabis licensees:

- Draft language for medicinal cannabis advertising which alerts licensees of requirements and/or prohibited language regarding medicinal use and health claims
- Develop possible sanctions for non-compliance with advertising rules and what the process is to rectify violations; consider alternative actions for "repeat offenders"
- Develop educational website for parents and guardians to use in "talking to your kids about marijuana" (expands upon current: https://www.healthvermont.gov/alcohol-drugs/lets-talk-cannabis/cannabis-and-youth)
- Draft initiatives that would clearly distinguish between commercial messages for adult-use and medical cannabis

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